

# **DISCLAIMER**

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**COMMONWEALTH OF VIRGINIA, ex rel.**

**OLIVER D. RUDY, TRUSTEE OF  
THE FINE CREEK LAND TRUST**

**and**

**CASE NO. PUE-2001-00473**

**THE REED'S LANDING CORPORATION,  
Petitioners**

**v.**

**SOUTHSIDE ELECTRIC COOPERATIVE,  
Defendant.**

**To seek sanctions for alleged abuse of authority  
granted under § 56-49 of the Code of Virginia**

## **REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER**

**April 10, 2002**

### **HISTORY OF THE CASE**

On August 24, 2001, Oliver D. Rudy, Trustee of the Fine Creek Land Trust, and the Reed's Landing Corporation (collectively, the "Petitioners") filed a Petition with the Commission requesting that the Commission, pursuant to § 56-35 of the Code of Virginia, find that Southside Electric Cooperative ("Southside" or "the Cooperative") has abused the powers granted to it pursuant to § 56-49 of the Code of Virginia.

The Commission entered an order on September 5, 2001, which, among other things, docketed the Petition, assigned the matter to a Hearing Examiner, and established dates for the Cooperative to file its Answer, and for the parties to file a Stipulation of Facts upon which they both agree and disagree.

The Cooperative filed its Answer and Grounds of Defense on September 10, 2001. In its Answer, the Cooperative stated that the Petitioners' own exhibits establish that the Circuit Court of Powhatan County has already decided that Southside obtained a valid easement for adequate consideration.<sup>1</sup> The Cooperative also raised a number of affirmative defenses, and argued the Commission should dismiss the Petition.

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<sup>1</sup>The Petitioners appealed the decision of the Circuit Court of Powhatan County to the Supreme Court of Virginia. By Order entered on January 9, 2002, the Supreme Court of Virginia found there was no reversible error in the judgment complained of, and refused the Petitioners' Petition for Appeal.

By Hearing Examiner's Ruling entered on September 17, 2001, a public hearing was scheduled for January 8, 2002, to receive evidence relevant to the issues in dispute, and a procedural schedule was established for the parties to prefile testimony and exhibits.

On October 30, 2001, the Cooperative filed a Motion for Summary Judgment and Dismissal. In its Motion, Southside argued the Petition should be found to be completely devoid of any legal basis or good faith argument, should be found to be completely devoid of any factual allegations upon which a specific remedy could be granted, and should be dismissed.

By Hearing Examiner's Ruling entered on November 6, 2001, the Petitioners were provided an opportunity to file a response to the Cooperative's Motion for Summary Judgment and Dismissal.

On November 19, 2001, the Petitioners filed a Response in which they argued their Petition contained specific allegations of misconduct that, if proven, would provide the jurisdictional basis for the Commission to enter an order pursuant to § 56-6 of the Code of Virginia. The statute grants the Commission jurisdiction to enjoin a public service corporation from a particular course of conduct, enjoin obedience to the requirements of Title 56 of the Code of Virginia, and compel any public service corporation to observe and perform any public duty imposed upon public service corporations by the laws of this Commonwealth. The Petitioners argued that, under the provisions of § 56-49 of the Code of Virginia, a prerequisite to the exercise of the power of eminent domain is a requirement for good faith negotiations with property owners in the Commonwealth. The Petitioners argued an abuse of this power would be a violation of a public duty that would warrant the application of the Commission's injunctive powers.

By Hearing Examiner's Ruling entered on November 30, 2001, the Cooperative's Motion for Summary Judgment and Dismissal was denied. In their Petition, the Petitioners alleged the Cooperative, a public service corporation, used a false or misleading real estate plat to induce the Petitioners to grant a utility easement over more land than the Petitioners originally intended. The material question of fact to be decided by the Commission is whether the real estate plat was, in fact, false or misleading. Since there is a material question of fact in dispute, summary judgment could not be granted. The Hearing Examiner established a revised schedule for the parties to prefile their testimony and exhibits.

The evidentiary hearing was convened as scheduled on January 8, 2002. Oliver D. Rudy, Esquire, appeared as counsel for the Petitioners. Mr. James K. Timmons, president, The Reed's Landing Corporation testified on behalf of the Petitioners. John M. Boswell, Esquire, appeared as counsel for the Cooperative. Mr. Robert W. Blankenship, Southside's district manager, and Mr. Douglas C. Bradbury, land surveyor and professional engineer, testified on behalf of the Cooperative. Sherry H. Bridewell, Esquire, appeared as counsel for the Commission's Division of Energy Regulation. A copy of the transcript is being filed with this Report.

## **SUMMARY OF THE EVIDENCE**

In February 1997, Southside's counsel contacted Mr. Gene Autry, executive vice president, Reed's Landing Corporation ("Reed's Landing"), by letter, and advised him of Southside's plans to construct a 115kv electric transmission line along the Route 615 corridor in Powhatan County (the "County") adjacent to land being considered for development by Reed's Landing.<sup>2</sup> Both the Fine Creek Land Trust ("FCLT") and Reed's Landing own land that would be impacted by the transmission line.<sup>3</sup> In order to meet electric demand in the area, Southside needed to construct a transmission fed distribution substation and needed a transmission line to deliver power to the substation. Mr. Autry was Southside's primary point of contact with Reed's Landing. Since both projects were in the initial planning stages, Southside wanted its planners to meet with Reed's Landing's planners to discuss conflicts with future roads, buffers, landscaping, and easements. (Tr. at 37-39; Ex. RB-2, Exhibit 1).

In September 1997, Mr. Blankenship contacted Mr. Autry, by letter, and advised him that the residential neighborhood planned by Reed's Landing would require a separate circuit from the substation to ensure adequate and reliable service. He provided Mr. Autry with a copy of Reed's Landing's preliminary site plan with the transmission line and proposed pole locations drawn in place. Mr. Blankenship requested Mr. Autry's assistance in locating the utility poles at the corners of the lots to avoid obstructing a future homeowner's view and to be as far away from future entrances to the subdivision as possible.<sup>4</sup> He advised Mr. Autry that the proposed transmission line would be similar in appearance to a transmission line recently constructed by Southside on Route 522.<sup>5</sup> He further advised Mr. Autry the Cooperative would need a 100-foot cleared right-of-way, 50 feet on either side of the transmission line, and that the utility poles would be located just off any easement dedicated to the Virginia Department of Transportation ("VDOT") for road improvements. Southside offered to clear an additional five feet of right-of-way adjoining the subdivision and plant a row of white pines. Southside also offered that its right-of-way could be used for the installation of drain fields. Southside offered to compensate Reed's Landing at the rate of .02 cents per square foot for the transmission line easement. (Ex. RB-2, at 2; Ex. RB-2, Exhibit 2; Tr. at 39-41).

By letter dated October 1997, Mr. Blankenship advised Mr. Autry that he had secured permission from the County's Planning Director to construct the transmission line on the natural

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<sup>2</sup>The Cooperative's Fine Creek Transmission Line project involves the construction of 6.8 miles of electric transmission line over land owned by approximately 45 landowners, from the Cooperative's service substation to its new Fine Creek substation. (Ex. RB-2, at 1).

<sup>3</sup>FCLT owns approximately 1200 acres of land in Powhatan County, and has engaged Reed's Landing to develop its land. FCLT deeds its land to Reed's Landing at the time of development. A portion of the land along the proposed right-of-way is owned by FCLT and a portion is owned by Reed's Landing. The land owned by FCLT and Reed's Landing accounts for approximately 30 percent of the total length of the easement required for the transmission line. (Ex. JT-1, at 2; Tr. at 31-32, 35-38, 45).

<sup>4</sup>Reed's Landing provided preliminary plats and drawings of its proposed development, but otherwise did not assist Southside's consulting engineers in locating the transmission line poles. Despite Reed's Landing's lack of participation, Southside instructed its consulting engineers to place the poles on the lot lines as shown on the preliminary plat to accommodate future development of the subdivision. (Tr. at 91, 107-08).

<sup>5</sup>The transmission line would be a low profile line using concrete poles approximately 75 to 85 feet tall and having two circuits jointly compacted on the one pole. (Tr. at 87-90).

vegetative buffer area that Reed's Landing had proffered to the County.<sup>6</sup> The 50-foot buffer area adjoined the 30-foot widening strip that Reed's Landing had proffered for future road improvement. In place of the existing natural buffer, Southside offered a landscape plan to be installed over a period of three years. Southside would bear the cost of installing the landscaping, and Reed's Landing would be responsible for replacing any plant material after expiration of the warranty period. Mr. Blankenship reiterated that the Cooperative was still offering .02 cents per square foot for the use of the buffer area (approximately 55 feet in width by 11,000 feet in length – pending survey).<sup>7</sup> (Ex. RB-2, at 3-5; Ex. RB-2, Exhibit 5).

Mr. Timmons expressed his concern to the Cooperative that before granting Southside the easement for the transmission line, the centerline of Route 615 should be established. This would establish, with certainty, the area subject to the road improvement proffer, which was 45 feet from the centerline of Route 615. In turn, this would determine the location of the transmission line poles and the transmission line easement. (Ex. RB-2, at 6; Ex. DB-4; Tr. at 108-09, 116-17).

In November 1998, Mr. Bradbury prepared a plat of the transmission line easement as it crosses FCLT and Reed's Landing property along Route 615. The plat showed the centerline of Route 615, the area to be proffered for future road improvement, and the transmission line easement. (Ex. RB-2, Exhibit 6).

In February 1999, Mr. Blankenship sent a letter and the plat to the VDOT resident engineer in the County requesting that VDOT approve the centerline of Route 615. In the letter, Mr. Blankenship stated Mr. Timmons was concerned that VDOT should approve the location of the centerline of the road and the boundary of the road improvement proffer. He advised VDOT that the developer, Reed's Landing, had, or would dedicate a 45-foot strip from the centerline of Route 615 for future road improvements. Mr. Blankenship stated any transmission facilities would be located outside the area dedicated for road improvements.<sup>8</sup> The VDOT resident engineer responded that VDOT had no records by which to verify the centerline of Route 615, no plans existed for this portion of Route 615, and a certified land surveyor and professional engineer prepared the plat. The resident engineer accepted his work as correct. (Ex. RB-2, Exhibits 7 and 8).

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<sup>6</sup>As part of a request for rezoning 402± acres it had under contract, Reed's Landing made several proffers to Powhatan County, including: (1) dedicate 45 feet of right-of-way from the existing centerline of Route 615 to the County for future widening (The widening strip would be approximately 30 feet from the edge of the existing road.); (2) maintain an undisturbed 50-foot buffer along Route 615, unless a landscaping plan is approved by the County's Planning Department; (3) if required, provide an entrance on Route 615 of such dimensions and location as required by VDOT; (4) limit the number of lots to be developed to 180; and (5) maintain a 100-foot natural vegetative buffer along all perennial streams and a 50-foot natural vegetative buffer along all intermittent streams. The proffers were contingent upon the property being developed for residential purposes. Not all of the land along the proposed transmission line easement was subject to proffer. FCLT owned land along the transmission right-of-way that was not subject to the proffer. (Ex. RB-2, Exhibit 4; Tr. at 69-70).

<sup>7</sup>If the Cooperative had been unable to use the buffer area, it would have had to go farther into the development to place the transmission line and Reed's Landing would have lost land that otherwise could have been developed. Southside sought to overlay its easement over the existing buffer to accommodate the Reed's Landing development. The Cooperative had estimates that the planning alone for the landscaping project would cost approximately \$45,000.00. (Tr. at 77-80).

<sup>8</sup>Southside usually builds its electric lines alongside a road so that it can overlay the VDOT easement. It does this so its lines will have less impact on the adjoining property, and half of its easement would be maintained by VDOT. Mr. Blankenship described this as a good utility practice. (Tr. at 93-94).

On March 4, 1999, Southside entered into an agreement with Reed's Landing to landscape the 50-foot buffer area Reed's Landing had proffered to the County. Mr. Autry executed the agreement on behalf of Reed's Landing. The agreement called for the Cooperative to clear the right-of-way for the electric transmission line using standard industry practices, construct the transmission line in an approved plan and profile, re-seed the disturbed area, and over a three-year period, install plant material in the buffer area in accordance with a landscape plan approved by the County's director of planning. (Ex. RB-3).

On March 16, 1999, FCLT granted Southside an easement for the transmission line for a sum of \$12,605.50. On the same day, Reed's Landing granted Southside a similar easement for a sum of \$1,140.68. (Ex. RB-2, Exhibits 9 and 10).

When it came time to start clearing the right-of-way, Mr. Blankenship contacted Mr. Autry to see if Southside could reimburse Reed's Landing for clearing the land. If Southside cleared the land, it was prohibited under Rural Utility Service ("RUS") guidelines from grubbing the tree stumps.<sup>9</sup> If the landowner cleared the land, Southside could reimburse the landowner for the cost. Since Reed's Landing was proposing a residential development, Mr. Blankenship assumed it would prefer a more manicured look to the right-of-way. He also thought Reed's Landing might want to salvage the timber on the property. Southside offered FCLT and Reed's Landing \$3,157.23 per acre to clear the land, which was based on Southside's recent cost for clearing land for its new substation. Southside reached an agreement with FCLT and Reed's Landing to reimburse them for clearing the right-of-way. When the contractor started clearing the land, he complained that he was clearing more than the 14.47 acres originally estimated. Mr. Blankenship and Mr. Autry met at the site, and Mr. Blankenship realized that the right-of-way being cleared included the 30-foot strip dedicated to VDOT. Once he realized his mistake, Mr. Blankenship agreed that the amount of acreage cleared for the right-of-way should be increased from 14.47 to 21.5 acres, and the FCLT and Reed's Landing compensated accordingly. In late January 2001, Southside recalculated the cost for clearing the right-of-way and agreed to pay FCLT and Reed's Landing \$67,880.45 versus \$45,585.12. Once this issue was resolved, the contractor resumed work, but shortly thereafter was stopped by Mr. Timmons. (Ex. RB-2, at 7-8; Ex. RB-2, Exhibit 11).

In February 2001, Mr. Timmons wrote Mr. Blankenship to express his displeasure with the Cooperative clearing the 30-foot widening strip between the road and the transmission line easement. The Cooperative's personnel mistakenly thought they could clear the land; however, Mr. Timmons advised the Cooperative that the FCLT owned this land. Although part of the widening strip is the subject of a proffer, Mr. Timmons advised the Cooperative that it may or may not in the future need to be dedicated to the County. He requested that the Cooperative cease the clearing activity until the parties could reach a reasonable resolution. Mr. Timmons indicated that he must have been asleep at the switch when the original right-of-way agreement was executed, and he was not adequately informed of the type of transmission line that was under consideration. He had the mistaken impression that the line would be similar to an electric distribution line. Mr. Timmons outlined the damages he believed were incurred by the FCLT. First, he estimated that 30 or more lots back up to the easement and were devalued by \$10,000.00 or more per lot. Second, he noted the loss of the mature trees along Route 615 represent a loss in aesthetic value for the entire area.

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<sup>9</sup>Mr. Blankenship explained that to "grub tree stumps" means to disturb the soil in the process of digging the stumps out of the ground. (Ex. RB-2, at 7).

Finally, he estimated the timber on property that was cleared had a value of \$40,000.00 to \$50,000.00.<sup>10</sup> (Ex. RB-2, Exhibit 12).

In his testimony, Mr. Timmons noted that several errors were made in acquiring the easements. First, the easements were poorly drawn and in no way provided the landowner with a legal description of the easement. Second, the easement for Reed's Landing incorrectly identifies the party granting the easement as Mr. Autry. Third, the plat incorrectly identifies 2400 feet of road frontage along Route 615 as part of the widening strip subject to the road improvement proffer. Although FCLT still owns this land, the Cooperative never intended to compensate FCLT for the land since it had been proffered to the County. Finally, the plat incorrectly labels one side of the easement as 55 feet in width, when it is actually 50 feet in width. Mr. Timmons believes, as a result of its actions, Southside acquired an easement over approximately seven acres of land without having paid for it. He believes a public service corporation bears a high standard of responsibility to deal fairly with its customers when it seeks to install a transmission line. He noted that most people do not want to live near one and it greatly impacts land values. In such cases, Mr. Timmons believes a public service corporation should be required to obtain an appraisal to determine the fair value of the land being taken for the easement and any damages. (Ex. JT-1, at 3-7; Tr. at 25-27, 43-45, 59-61).

Mr. Blankenship testified that he did not include the 30-foot widening strip in his calculation of the acreage for the right-of-way easement because the land had been proffered to the County for future road improvements. He thought once the land had been proffered, it belonged to the County; however, his understanding of proffers was incorrect. Once he became aware that FCLT and Reed's Landing still owned the land, Mr. Blankenship offered to compensate them at the .02 cents per square foot for the additional land already covered by the easement. Mr. Timmons rejected that offer. Southside offered additional sums to resolve the dispute with Mr. Timmons and these offers were also rejected. Mr. Blankenship testified Southside negotiated in good faith to resolve the problem with Mr. Timmons. He further testified it was never his intent to fail to compensate FCLT or Reed's Landing for the easement that was needed for the transmission line. (Ex. RB-2, at 8-9; Tr. at 81-82, 109).

Mr. Blankenship has worked for Southside for 28 years, the last three as the Powhatan District Manager. He has been involved in the acquisition of easements for seven years. During that period, this was the first transmission line easement he acquired; the remainder were distribution line easements. As a usual practice, the Cooperative does not obtain appraisals prior to making an offer to a landowner for an easement. It offers a fixed price and uses this as a basis for negotiations. If the landowner refuses to negotiate, the matter would be referred to Southside's attorney to negotiate a settlement, or obtain the easement by eminent domain. Prior to granting the easements, FCLT and Reed's Landing raised only two concerns regarding the scope of the easement. First, the transmission line should not pass over the entrance to Maple Grove. Second, the poles should not be located near the entrance of the subdivision. Southside accommodated these requests. (Tr. at 83-85; 100-02).

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<sup>10</sup> Apparently, Mr. Timmons was unaware at the time he wrote the letter that his people had harvested the timber. (Ex. RB-2, at 9).

On cross-examination, Mr. Blankenship testified that from the outset, he sought to obtain a 100-foot easement from FCLT and Reed's Landing, which would be 50 feet on either side of the centerline of the transmission line. He intended to pay for only 55 feet of that easement, mistakenly believing the other 45 feet of the easement had been, or would be, proffered for future VDOT road improvement. Mr. Blankenship instructed Mr. Bradbury to exclude the 30-foot widening strip in calculating the total square footage of the easement. This calculation was used to determine the compensation to be paid for the easement. He confirmed that Southside performed no title search to determine the ownership of the 30-foot strip along Route 615 as it crossed land owned by FCLT and Reed's Landing. (Tr. at 95-98; 103-04).

On redirect, Mr. Blankenship confirmed the vast majority of the easements he has obtained have been for electric distribution lines. In those cases, Southside does not obtain appraisals, nor does it even record the easement. This was Mr. Blankenship's first transmission line easement. Of the 45 landowners affected by the line, all but four or five accepted the .02 cents per square foot Southside offered for the easement. Of those that did not accept Southside's initial offer, Mr. Blankenship attempted to accommodate them from a physical engineering perspective. If the landowner still did not accept Southside's offer of compensation and re-engineering, it proceeded to condemnation. After condemnation proceedings were initiated, some of the landowners received additional compensation above the .02 cents per square foot. (Tr. at 105-06, 110-11).

Mr. Bradbury testified he became involved in the project in order to facilitate both Southside's transmission line and Reed's Landing's development. Typically, Southside retains him only in condemnation cases. He confirmed that his instructions were to calculate the area of the easement lying outside the widening strip proffered by Reed's Landing. He testified the County's current transportation plan calls for a 90-foot right-of-way along the entire length of Route 615, 45 feet on each side of the centerline of the road. He indicated that the dedication of additional right-of-way along existing roads is normal procedure for zoning cases in the County.<sup>11</sup> Mr. Bradbury explained that in his plat the edge of the easement should be 50 feet from the transmission line rather than the 55 feet shown. The area marked "Variable" in his Easement Detail is approximately five feet in width, and represents the distance the transmission poles would be offset from the widening strip. In calculating the total square footage of the easement, he included the variable area, approximately five feet, and the 50 feet from the transmission line to the edge of the easement in his calculation. (Ex. DB-5, at 1; Tr. at 114-16, 118-19).

In his rebuttal testimony, Mr. Timmons addressed the landscape plan offered by Southside. He believes Southside has saddled the FCLT and Reed's Landing with perpetual maintenance of the landscaping in the buffer area. When Reed's Landing received its zoning approval, the lots backing up to Route 615 would have had a 50-foot natural buffer to screen the homes from the road. FCLT and Reed's Landing would not have incurred any costs to maintain the buffer. Now, as a result of the landscape plan, FCLT and Reed's Landing will have to maintain over 1400 plants. (Tr. at 138-42).

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<sup>11</sup>Mr. Bradbury explained that a proffer in a zoning case is merely a promise to do something in the future. A dedication of land would involve the transfer of land by deed. (Tr. at 125-26).

Mr. Timmons has worked with other state agencies seeking to acquire easements and in those instances an appraisal was done to determine the fair value of the land being taken. Mr. Timmons believes that should have been done in this case, especially considering that a high voltage transmission line was involved. Mr. Timmons believes Southside's goal from the outset was to obtain the easement for the cheapest price possible without consideration for what is fair and equitable. He believes a public service corporation has an obligation to the citizens of the Commonwealth to operate in a fair manner. In this case, Southside obtained an easement over seven acres of land for which it paid nothing. Mr. Timmons stated he also tried to settle the matter with Southside and his settlement offers were rejected. (Ex. JT-5, at 4-9).

## **DISCUSSION**

The Petitioners request that the Commission, pursuant to § 56-35 of the Code of Virginia, find that the Cooperative abused the powers granted to it pursuant to § 56-49 of the Code of Virginia.

Virginia Code § 56-35 provides that:

[t]he Commission shall have the power, and be charged with the duty, of supervising, regulating and controlling all public service companies doing business in this Commonwealth, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses therein by such companies.

Virginia Code § 56-49 allows generally a public service corporation to acquire by eminent domain rights-of-way for its public utility facilities.

The evidentiary standard that must be met before a violation of the Code of Virginia may be found is "clear and convincing." Rule 5 VAC 5-20-90A. The Virginia Supreme Court has defined this standard as:

that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as is required beyond a reasonable doubt as in criminal cases. It does not mean clear and *unequivocal*.

*Gifford v. Dennis*, 230 Va. 193, 198 n.1, 335 S.E.2d 371, 373 n.1 (1985) (quoting *Walker Agcy. & Aetna Cas. Co. v. Lucas*, 215 Va. 535, 540-41, 211 S.E.2d 88, 92 (1975) (emphasis in original)).

After considering the evidence, I find the issues raised in this case are the result of an honest mistake made by Mr. Blankenship, and a lack of communication between Mr. Timmons and his employees. There is no evidence of malice or evil intent on the part of Mr. Blankenship or the Cooperative to trick, coerce, or otherwise not pay for all the land it needed for its transmission line

easement. The plat in question accurately establishes the centerline of Route 615, and it accurately establishes the square footage of the land Mr. Blankenship mistakenly thought Southside needed to purchase for the transmission line easement. I understand the Cooperative's position that it should not have to pay for land that is, or will be, proffered to VDOT for road improvements. The Cooperative must answer to its member-owners for monies that it spends, and it must spend those monies wisely. On the other hand, I understand the position of FCLT and Reed's Landing. They own the land in question and it may, or may not, have to be dedicated for road improvements in the future. Rightly, they should have been compensated for the land in question. However, the issue before the Commission is not compensation for the additional seven acres of land needed for the transmission line easement. It is whether Southside violated § 56-49 of the Code of Virginia. The evidentiary record, however, fails to support the allegations FCLT and Reed's Landing set forth in their Petition. I find that the Petitioners failed to prove by clear and convincing evidence that the Cooperative abused the powers granted to it pursuant to § 56-49 of the Code of Virginia.

### **FINDINGS AND RECOMMENDATIONS**

Based on the testimony and evidence received in this case, and for the reasons set forth above, I find the Petitioners failed to prove by clear and convincing evidence the Cooperative abused the powers granted to it pursuant to § 56-49 of the Code of Virginia.

I therefore ***RECOMMEND*** the Commission enter a Final Order that:

- (1) ***DISMISSES*** this matter from the Commission's docket of active cases; and
- (2) ***PASSES*** the papers herein to the file for ended causes.

### **COMMENTS**

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 C) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within twenty-one (21) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

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Michael D. Thomas  
Hearing Examiner